

AMENDED IN ASSEMBLY MAY 29, 2002

AMENDED IN SENATE APRIL 1, 2002

SENATE BILL

No. 2019

Introduced by Senator ~~Figueroa~~ Speier

February 22, 2002

~~An act to amend Sections 7085 and 7091 of, to add Section 7122.2 to, and to repeal Section 7085.8 of, the Business and Professions Code, relating to contractors. An act to add Section 685 to the Business and Professions Code, relating to student loans, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 2019, as amended, ~~Figueroa~~ Speier. ~~Arbitration of contractors disputes~~ *Health care practitioners: student loans.*

Existing law provides for the licensure and regulation of health care practitioners, as defined.

This bill would require a licensed health care practitioner who is in default on a United States Department of Health and Human Services education loan or service obligation or on a loan made under the Federal Family Education Loan Program to have his or her license suspended until the default is cleared or until he or she has made satisfactory repayment arrangements. The bill would authorize the appropriate licensing board to cite and fine the health care practitioner who is in default. The bill would require a board, prior to issuing a citation, to take into account the population served by the health care practitioner and his or her economic status. The bill would authorize the board to deny a license to an applicant to become a health care practitioner if he or she is in default of a loan.

Because this bill by authorizing the imposition of new fines would increase the amount of money deposited into various continuously appropriated funds in the Professions and Vocations Fund, the bill would make an appropriation.

This bill would become operative on July 1, 2003.

The bill would provide that the provisions relating to the State Board of Chiropractic Examiners and its licensees would not become operative until approved by the voters.

~~Existing law, the Contractors' State License Law, provides for arbitration of disputes arising out of cases filed with or by the Contractors' State License Board. The registrar is the executive officer who carries out the board's administrative duties and tasks delegated by the board and who is authorized to issue a citation for a violation of specified provisions that may result in the assessment of a civil penalty.~~

~~Existing law authorizes the registrar to refer specified complaints where the licensee is in good standing at the time of the referral to arbitration, with the concurrence of both the licensee and the complainant, if there is evidence that the complainant has suffered or is likely to suffer damages greater than \$5,000 and less than \$50,000. The registrar is required to refer these complaints to arbitration where the licensee is in good standing at the time of the referral if the contract price is equal to or less than \$5,000 or if the demand for damages is equal to or less than \$5,000. Existing law also requires that an accusation or citation against a licensee be filed by the registrar within a specified time period.~~

~~This bill would change the amount in dispute requirement for mandatory arbitration to \$7,500 or less, and would require that referrals to the arbitration program be subject to the same statute of limitation as are accusations or citations by the registrar. The bill would delete the requirement that a licensee be in good standing at the time of a referral in order to qualify for referral to arbitration. The bill would provide that the disassociation of any qualifying partner, responsible managing officer, or responsible managing employee from a license that has been referred to arbitration does not relieve the qualifying partner, responsible managing officer, or responsible managing employee from responsibility for complying with an award rendered as a result of an arbitration referral.~~

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 7085 of the Business and Professions~~

SECTION 1. Section 685 is added to the Business and Professions Code, to read:

685. (a) A health care practitioner who is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan (HEAL), or service obligation, or who is in default on a loan made under the Federal Family Education Loan Program (FFELP), shall have his or her license suspended until the default is cleared or until he or she has made satisfactory repayment arrangements.

(b) (1) A board may cite and fine a health care practitioner if he or she is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan, or service obligation, or is in default on a loan made under the Federal Family Education Loan Program.

(2) In determining whether to issue a citation to a health care practitioner, a board shall take into consideration the following:

(A) The population served by the health care practitioner.

(B) The health care practitioner's economic status.

(c) The board may deny a license to an applicant to be a health care practitioner if he or she is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan, or service obligation, or is in default on a loan made under the Federal Family Education Loan Program.

(d) For purposes of this section, the following terms shall have the following meanings:

(1) "Board" means a licensing board or agency having jurisdiction of a licensee.

(2) "Health care practitioner" means a person licensed or certified pursuant to this division or licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act.

(e) This section shall become operative on July 1, 2003.

SEC. 2. Section 1 of this act, as it relates to the State Board of Chiropractic Examiners and its licensees, shall not become operative until approved by the voters.

~~Code is amended to read:~~

~~7085. (a) After investigating any verified complaint alleging a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvement as defined in Section 7151 and finding a possible violation, the registrar may, with the concurrence of both the licensee and the complainant, refer the alleged violation, and any dispute between the licensee and the complainant arising thereunder, to arbitration pursuant to this article, provided the registrar finds that:~~

~~(1) There is evidence that the complainant has suffered or is likely to suffer material damages as a result of a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint arising from a contract involving works of improvement as defined in Section 7151.~~

~~(2) There are reasonable grounds for the registrar to believe that the public interest would be better served by arbitration than by disciplinary action.~~

~~(3) The licensee does not have a history of repeated or similar violations.~~

~~(4) The licensee was in good standing at the time of the alleged violation.~~

~~(5) The licensee does not have any outstanding disciplinary actions filed against him or her.~~

~~(6) The parties have not previously agreed to private arbitration of the dispute pursuant to contract or otherwise.~~

~~(7) The parties have been advised of the provisions of Section 2855 of the Civil Code.~~

~~For the purposes of paragraph (1), “material damages” means damages greater than seven thousand five hundred dollars (\$7,500) and less than fifty thousand dollars (\$50,000).~~

~~(b) In all cases in which a possible violation of the sections set forth in paragraph (1) of subdivision (a) exists and the contract price is equal to or less than seven thousand five hundred dollars (\$7,500), or the demand for damages is equal to or less than seven thousand five hundred dollars (\$7,500) regardless of the contract price, the complaint shall be referred to arbitration, utilizing the criteria set forth in paragraphs (2) to (6), inclusive, of subdivision (a).~~

~~SEC. 2.—Section 7085.8 of the Business and Professions Code is repealed.~~

1 ~~SEC. 3.—Section 7091 of the Business and Professions Code~~
2 ~~is amended to read:~~

3 ~~7091. (a) A complaint against a licensee alleging~~
4 ~~commission of any patent acts or omissions that may be grounds~~
5 ~~for legal action shall be filed in writing with the registrar within~~
6 ~~four years after the act or omission alleged as the ground for the~~
7 ~~disciplinary action. An accusation or citation against a licensee~~
8 ~~shall be filed or a referral to the arbitration program outlined in~~
9 ~~Section 7085 shall be referred within four years after the patent act~~
10 ~~or omission alleged as the ground for disciplinary action or~~
11 ~~arbitration or within 18 months from the date of the filing of the~~
12 ~~complaint with the registrar, whichever is later, except that with~~
13 ~~respect to an accusation alleging a violation of Section 7112, the~~
14 ~~accusation may be filed within two years after the discovery by the~~
15 ~~registrar or by the board of the alleged facts constituting the fraud~~
16 ~~or misrepresentation prohibited by the section.~~

17 ~~(b) A complaint against a licensee alleging commission of any~~
18 ~~latent acts or omissions that may be grounds for legal action~~
19 ~~pursuant to subdivision (a) of Section 7109 regarding structural~~
20 ~~defects, as defined by regulation, shall be filed in writing with the~~
21 ~~registrar within 10 years after the act or omission alleged as the~~
22 ~~ground for the disciplinary action. An accusation and citation~~
23 ~~against a licensee shall be filed within 10 years after the latent act~~
24 ~~or omission alleged as the ground for disciplinary action or within~~
25 ~~18 months from the date of the filing of the complaint with the~~
26 ~~registrar, whichever is later, except that with respect to an~~
27 ~~accusation alleging a violation of Section 7112, the accusation~~
28 ~~may be filed within two years after the discovery by the registrar~~
29 ~~or by the board of the alleged facts constituting the fraud or~~
30 ~~misrepresentation prohibited by Section 7112. As used in this~~
31 ~~section “latent act or omission” means an act or omission that is~~
32 ~~not apparent by reasonable inspection.~~

33 ~~(c) An accusation regarding an alleged breach of an express,~~
34 ~~written warranty for a period in excess of the time periods~~
35 ~~specified in subdivisions (a) and (b) issued by the contractor shall~~
36 ~~be filed within the duration of that warranty.~~

37 ~~(d) The proceedings under this article shall be conducted in~~
38 ~~accordance with the provisions of Chapter 5 (commencing with~~
39 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
40 ~~Code, and the registrar shall have all the powers granted therein.~~

~~(c) Nothing in this section shall be construed to affect the liability of a surety or the period of limitations prescribed by law for the commencement of actions against a surety or cash deposit.~~

~~SEC. 4. Section 7122.2 is added to the Business and Professions Code, to read:~~

~~7122.2. Notwithstanding Section 7068.2 or any other provisions of this chapter, the disassociation of any qualifying partner, responsible managing officer, or responsible managing employee from a license that has been referred to arbitration pursuant to Section 7085 shall not relieve the qualifying partner, responsible managing officer, or responsible managing employee from responsibility for complying with the award rendered as a result of an arbitration referral. Section 7122.5 shall apply to any qualifying partner, responsible managing officer, or responsible managing employee of a licensee that fails to comply with an arbitration award once it is rendered.~~

